



International Tribunal for the
Prosecution of Persons
Responsible for Serious Violations of
International Humanitarian Law
Committed in the Territory of the
Former Yugoslavia since 1991

Case No. IT-00-39-A
Date: 27 September 2007
Original: English

IN THE APPEALS CHAMBER

Before: Judge Fausto Pocar, Presiding
Judge Mohamed Shahabuddeen
Judge Mehmet Güney
Judge Andréia Vaz
Judge Theodor Meron

Registrar: Mr. Hans Holthuis

Decision of: 27 September 2007

PROSECUTOR

v.

MOMČILO KRAJIŠNIK

PUBLIC

**DECISION ON "MOTION BY MOMCILO KRAJISNIK FOR
RECONSIDERATION OF THE APPELLATE CHAMBER'S
DECISION OF SEPTEMBER 11, 2007"**

The Office of the Prosecutor:

Mr. Peter Kremer

The Accused

Momčilo Krajišnik

Amicus Curiae

Mr. Colin Nicholls

TM

THE APPEALS CHAMBER of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (“Appeals Chamber” and “Tribunal”, respectively);

NOTING the Appeals Chamber’s Decision of 11 September 2007 in which it, *inter alia*, rejected a request by Momčilo Krajišnik (“Mr. Krajišnik”) for an extension of time to file his appeals brief and emphasized that Mr. Krajišnik is entitled to translation assistance by a translator whom the Registry deems appropriately qualified;¹

NOTING the “Motion by Momcilo Krajisnik for Reconsideration of the Appellate Chamber’s Decision of September 11, 2007” filed on 21 September 2007 (“Motion”) in which Mr. Krajišnik seeks authorization to enlarge the applicable word limit for appeals briefs as provided by the Practice Direction on the Length of Briefs and Motions² from 30,000 words to 45,000 words, an additional ten weeks to submit his brief, and the appointment of Stepan Karganović (“Mr. Karganović”) as his translator/case manager;

NOTING that the Prosecution has not yet filed a response;

CONSIDERING, however, that the time limit for submission of Mr. Krajišnik’s appeals brief will expire on 8 October 2007, and that the Motion, therefore, may be disposed of without giving the Prosecution further time to respond;³

CONSIDERING that the Appeals Chamber has “inherent discretionary power” to reconsider decisions “if a clear error of reasoning has been demonstrated or if it is necessary to do so to prevent an injustice”,⁴ and that the unanticipated period during which Mr. Krajišnik did not have access to translation assistance between 24 August and 14 September 2007 constitutes such an exceptional circumstance;

CONSIDERING that, despite the volume of paperwork comprising the Trial Judgement, the trial transcript, and the trial exhibits, Mr. Krajišnik has not demonstrated why he is not similarly situated to other appellants and cannot express his legal arguments within the standard 30,000-word limit;

¹ Decision on Krajišnik Request and Prosecution Motion, 11 September 2007, paras 17, 28.

² IT/184/Rev.2, 16 September 2005, para. (C)(1).

³ Cf. *Nahimana et al. v. Prosecutor*, Case No. ICTR-99-52-A, Decision on Appellant Jean-Bosco Barayagwiza’s Motion for Extension of Time, 3 May 2007, p. 2; *Gacumbitsi v. Prosecutor*, Case No. ICTR-01-64-A, Decision on the Appellant’s Motion of 8 December 2005, 16 December 2005, para. 2.

⁴ *Kajelijeli v. Prosecutor*, Case No. ICTR-98-44A-A, Judgement, 23 May 2005, para. 203 (internal quotation marks omitted). See also *Nahimana et al. v. Prosecutor*, Case No. ICTR-99-52-A, *Décision relative à la Requête de l’Appellant Jean-Bosco Barayagwiza demandant l’examen de la Requête de la Défense datée du 28 juillet 2000 et réparation pour abus de procédure*, 23 June 2006, para. 22; *Prosecutor v. Strugar*, Case No. IT-01-42-Misc.1, Decision on Strugar’s Request to Reopen Appeal Proceedings, 7 June 2007, para. 26.

NOTING that Mr. Krajišnik's asserted unequal situation is undercut by the fact that the Prosecutor faces the same word-limit;

CONSIDERING that the Registry has refused to recognize Mr. Karganović as Mr. Krajišnik's language assistant because of the Registrar's determination that Mr. Karganović breached certain regulations by impermissibly transmitting certain materials on behalf of Mr. Krajišnik;⁵

RECALLING that the Appeals Chambers affords a high level of deference to reasonable administrative determinations made by the Registry, which is in the best position to apply the governing regulations to the facts of a given case;⁶

CONSIDERING that as the seventy-five day limit for the filing of Mr. Krajišnik's appeals brief began running on 24 July 2007, the date on which Mr. Krajišnik received a B/C/S translation of the Trial Judgement, his appeals brief is presently due on 8 October 2007;⁷

NOTING that on 24 August 2007, Mr. Marković, whom Mr. Krajišnik had selected as his translator and whom the Registry had duly approved, notified the parties that he had accepted other employment and could no longer work with Mr. Krajišnik;⁸

NOTING that on 14 September 2007, the Registry confirmed the appointment of Mr. Vasić as Mr. Krajišnik's language assistant;⁹

CONSIDERING that the Appeals Chamber deems it appropriate to account for the three-week gap between Mr. Marković's withdrawal on 24 August and Mr. Vasić's appointment on 14 September;

HEREBY DENIES the Motion in part, specifically Mr. Krajišnik's request for permission to submit an appeals brief longer than 30,000 words and his request that Mr. Karganović be appointed as his translator/case manager, and **GRANTS** the Motion in part, specifically by extending the deadline for the submission of Mr. Krajišnik's appeals brief until 29 October 2007 in order to account for the three-week period during which Mr. Krajišnik could not avail himself of the services of a Registry-approved language assistant.

Done in English and French, the English text being authoritative.

⁵ Letter from Hans Holthuis to Mr. Krajišnik, 6 September 2007.

⁶ *See, e.g., Prosecutor v. Blagojević & Jokić*, Case No. IT-02-60-T, Decision on Independent Counsel for Vidoje Blagojević's Motion to Instruct the Registrar to Appoint New Lead and Co-Counsel, 3 July 2003, paras 23-25.

⁷ Decision on Krajišnik Request and Prosecution Motion, 11 September 2007, para. 28.

⁸ Letter from Hans Holthuis to Mr. Krajišnik, 6 September 2007.

⁹ Letter from Martin Petrov to Mr. Krajišnik, 14 September 2007.

Dated this 27th day of September 2007,
At The Hague, The Netherlands.



Fausto Pocar
Presiding Judge

[Seal of the Tribunal]